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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,781	11/13/2001	Brant Candelore	080398.P420	8845

7590 07/13/2007  
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EXAMINER
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PICH, PONNOREAY

ART UNIT	PAPER NUMBER
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2135

MAIL DATE	DELIVERY MODE
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07/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/993,781	<b>Applicant(s)</b> CANDELORE, BRANT	
	<b>Examiner</b> Ponnoreay Pich	<b>Art Unit</b> 2135	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-15,17-47 and 57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-15,17-47,57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/21/2007 has been entered.

Claims 1-2, 4-15, 17-47, and 57 are pending.

### ***Response to Amendment and Arguments***

Applicant's amendments and arguments directed at the amended claims have been fully considered, but are moot in view of new rejections presented below.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

1. Claims 4 and 17 as currently recited depend from claims that have been cancelled. The examiner assumes the claims should depend on claims 1 and 14 respectively instead.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 14, 27, 37, 4, 17, 5, 18, 7, 20, 8, 21, 44, 9, 22, 10, 23, 12, 25, 36, 57, 30-31, 33-34, 35, 38, 41-42, 45, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,598,474) in view of Checchio (US 6,052,675).

**Claims 1 and 14:**

Johnson discloses:

1. Obtaining data, i.e. fingerprint data, from a device, i.e. fingerprint reader, for use as an input to a first cryptographic process, wherein the data is obtained from a particular user authorized to use the device (col 5, lines 12-22 and col 6, lines 26-62).
2. Creating an output of the first cryptographic process (col 9, lines 54-65). *The fingerprint data is digitized and encrypted after it is scanned in via use of a fingerprint reader.*
3. Writing the output from the first cryptographic process to a storage location, i.e. magnetic strip on the back of a card, after the device is received by the particular user (col 9, lines 65-67). *Note that fingerprint data cannot be obtained until the user receives the fingerprint reader. As such, the encrypted fingerprint data cannot be written to the magnetic strip until after the user receives the fingerprint reader.*

Johnson does not explicitly disclose:

1. The particular user is of a plurality of authorized users.
2. Wherein the output comprises a plurality of authorization levels and each authorization level is associated with a different one of the plurality of users.

However, Checchio discloses a particular user is of a plurality of authorized users (col 6, line 41-col 7, line 7). Checchio discloses an output comprising a plurality of authorization levels and each authorization level is associated with a different one of the plurality of users (col 6, lines 41-62). At the time applicant's invention was made, it would have been obvious to one of ordinary skill in the art to modify Johnson's invention according to the limitations recited in claims 1 and 14 in light of Checchio's teachings. One skilled would do so by associating the output data created by Johnson's invention with a plurality of users who are all authorized to use a credit card account, each of the users having a plurality of authorization/credit level which is determined by the main account owner. One skilled would have been motivated to incorporate Checchio's teachings within Johnson's invention because it would allow a parent or primary card user to more closely control the spending of the children/secondary users of the card (col 6, lines 63-67).

**Claim 27:**

Claim 27 is directed towards an apparatus comprising a processor and a physical device communicatively coupled with the processor, the processor and physical device

performing the method of claim 1. Claim 27 is rejected for much the same reasons as claim 1. Note that the cryptographic process of Johnson's invention is performed using a software routine (col 5, lines 53-54), which implies that it is a computerized process. One skilled should appreciate that all computers have processors. Further, since the output of the process is written to the magnetic strip of a card, this implies a physical device which does the writing.

**Claim 37:**

Johnson discloses a transaction terminal (Fig 2, computer 20 and magnetic card reader 23) configured to communicate with a device (Fig 2, card 23), the transaction terminal comprising a hardware component that reads an output of a first cryptographic process from the device (col 10, lines 3-4), wherein the first cryptographic process and a second cryptographic process are used to validate a transaction (col 10, lines 4-12).

As per the limitations of the output comprising a plurality of authorization levels, wherein data obtained from a particular user of a plurality of users are authorized to use the device is used as input for the first cryptographic process, and wherein each authorization level is associated with a different one of the plurality of users, these limitations are similar to limitations recited in claim 1 and are rejected over Johnson and Checchio for the same reasons and motivations given in claim 1.

**Claims 4 and 17:**

Johnson further discloses wherein the data is entered with at least one of a biometric device, a keypad, and a microphone (col 5, lines 12-22 and 51-59).

**Claims 5 and 18:**

Johnson further discloses creating an output of a second cryptographic process, wherein the data is used as input to the second cryptographic process (col 6, lines 43-46).

**Claims 7 and 20:**

Johnson further discloses wherein the second cryptographic process is performed by at least one of a device, a point of sale terminal, a transaction privacy clearing house, a vendor, and a financial processing system (col 6, lines 34-57).

**Claims 8, 21, 44:**

Johnson further discloses comparing at least one of the output of the first cryptographic process and the input to the first cryptographic process with at least one of the output of the second cryptographic process and the input to the second cryptographic process (col 6, lines 46-49 and col 10, lines 7-12).

**Claims 9 and 22:**

Johnson further discloses allowing a transaction based on the comparing (col 6, lines 46-61).

**Claims 10 and 23:**

Johnson does not explicitly disclose preventing the transaction based on the comparing. However, this limitation was well known in the art. As Johnson discloses the comparison being done for a validation and security check (col 6, lines 34-56), it would have been obvious to one of ordinary skill to modify Johnson's invention such that if the comparison does not indicate a valid match that the transaction would be prevented. One of ordinary skill would have done so for security purposes.

**Clams 12, 25, 36, and 57:**

Checchio further discloses wherein one of the plurality of authorization levels comprises a limit on transactions to be authorized, the limit being at least one of: limiting an amount of money to be spent in a given time period; barring certain users from making certain types of transactions; and barring certain types of transactions (col 6 line 41-col 7, line 7).

**Claim 30:**

Johnson further discloses wherein the storage location is associated with a personal transaction card, i.e. credit card (col 9, line 65-col 10, line 2).

**Claim 31:**

Johnson further discloses wherein the storage location is a magnetic stripe (col 9, line 65-col 10, line 2).

**Claim 33:**

Johnson further discloses a user interface, i.e. fingerprint reader, communicatively coupled with the processor, wherein the input to the first cryptographic process is entered through the user interface (col 5, lines 12-22 and 52-59).

**Claim 34:**

Johnson further discloses the user interface is at least one of a keypad, a biometric unit, and a microphone (col 5, lines 12-17).

**Claim 35:**

Johnson further discloses wherein the processor confirms an identification, the identification selected from the group consisting of DNA identification and biometric data



(col 5, lines 12-22 and col 6, lines 34-56). Johnson also discloses that personal identification number was often used for identification purposes in most of today's ID cards (col 1, lines 44-46).

Johnson does not disclose voice identification being one of the groups of selected identification. However, voice identification systems were well known at the time the applicant's invention was made. One of ordinary skill would be motivated to use it as it is a commonly used identification scheme.

**Claims 38:**

Johnson further discloses wherein the second cryptographic process to be performed by at least one of a transaction terminal, a financial processing system, a transaction privacy clearing house, the device, and a vendor (col 6, lines 34-57).

**Claim 41:**

Johnson further discloses wherein a comparison of at least one of the output of the first cryptographic process and the input to the first cryptographic process with at least one of an output of the second cryptographic process and an input to the second cryptographic process allows a transaction if a result of the comparison is within a predetermined range (col 6, lines 34-61).

**Claims 42 and 45:**

Johnson further discloses wherein the comparison occurs at the transaction terminal (col 6, lines 34-57).

**Claim 47:**

Johnson further discloses wherein the device comprises a personal transaction card (col 9, line 65-col 10, line 2 and Fig 2, card 22).

Claims 2, 15, 32, 6, 19, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,598,474) in view of Checchio (US 6,052,675) in further view of Seal et al (US 2002/0122572).

**Claims 2, 15, and 32:**

Johnson does not explicitly disclose wherein the first cryptographic process is based on a time stamp. However, Seal discloses a cryptographic process based on a time stamp (paragraphs 32 and 75). The cited paragraphs of Seal disclose that biometric data, i.e. iris scan, is encrypted along with a time stamp to increase security. Note that while Johnson uses fingerprint data, Seal uses iris scan data. However, both data are biometric data and one skilled should appreciate Seal's teachings could easily be adapted to be used with a different type of biometric data than iris scans.

At the time applicant's invention was made, it would have been obvious to one of ordinary skill in the art to modify Johnson's invention according to the limitations recited in claims 2, 15, and 32 by modifying the first cryptographic process such that it encrypted the scanned fingerprint data along with a time stamp. One skilled would have been motivated to do so because Seal discloses that including a time stamp along with the biometric data would increase security (paragraph 31).

**Claims 6, 19, and 40:**

Johnson does not explicitly disclose the second cryptographic process is based on a time stamp. However, Seal discloses a cryptographic process based on a time stamp (paragraphs 32 and 75). At the time applicant's invention was made, it would have been obvious to one skilled in the art to further modify Johnson's invention according to the limitations recited in claims 6, 19, and 40. One skilled would do so by including a time stamp of the fingerprint data scanned in to be deciphered into critical data. One skilled would have been motivated to do so because it would ensure that the data received to be compared with the data stored in the magnetic card disclosed by Johnson is recent/live data.

Claims 11, 24, 43, and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,598,474) in view of Checchio (US 6,052,675) in further view of Gordon et al (US 6,289,323).

**Claims 11, 24, 43, and 46:**

Johnson does not explicitly disclose wherein the comparing/comparison occurs without providing an identity of the particular user. However, Gordon discloses a comparison occurring without providing an identity of the particular user (col 2, lines 16-24). In light of this, it would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to have further modified Johnson invention according to the limitation recited in claims 11, 24, 43, and 46. One of ordinary skill

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would have been motivated to do so as Gordon discloses that his teachings can be used for conducting monetary transactions (col 2, lines 1-4). The examiner also notes that occasionally, a user might want to remain anonymous to some of the parties involved.

Claims 13 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,598,474) in view of Checchio (US 6,052,675) in further in view of Weissman (US 6,353,811) and Waite et al (US 5,594,230).

**Claims 13 and 26:**

Johnson further discloses wherein the storage location is selected from the group consisting of a magnetic strip and a personal transaction card (col 5, line 55). Johnson does not explicitly disclose the group also consisting of a magnetic strip emulator and a bar code emulator. However, a magnetic strip emulator and a bar code emulator are well known and commonly used types of storage mediums for identification data.

Further, Weissman discloses a magnetic strip emulator being used to store data (col 3, lines 62-67). Waite discloses a bar code emulator being used to store data (col 4, lines 29-33). In light of this, it would have been obvious to one of ordinary skill in the art to have included a magnetic strip emulator and bar code emulator as one of the choices for the storage location. One of ordinary skill would have been motivated to do so as a magnetic strip emulator and bar code emulator were common form of storage locations. Further, Weissman discloses that a magnetic strip emulator can use used in

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an electronic wallet (col 3, lines 62-67) and Waite discloses that use of a bar code emulator can allow extensive set of test operations of a bar code reader (col 4, lines 23-28).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,598,474) in view of Checchio (US 6,052,675) in further in view of Weissman (US 6,353,811).

**Claim 28:**

Johnson does not explicitly disclose wherein the storage location is a magnetic stripe emulator. However, as discussed in claims 13 and 26, the limitation is disclosed by Weissman (col 3, lines 62-67). At the time applicant's invention was made, it would have been obvious to modify Johnson's invention according to the limitations recited in claim 28 in light of Weissman's teachings. One skilled would have been motivated incorporate Weisman's teachings for the same reasons given in claims 13 and 26.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,598,474) in view of Checchio (US 6,052,675) in further in view of Waite et al (US 5,594,230).

**Claim 29:**

Johnson does not explicitly disclose wherein the storage location is a bar code emulator. However as discussed in claims 13 and 26, the limitation is disclosed by Waite (col 4, lines 29-33). At the time applicant's invention was made, it would have been obvious to modify Johnson's invention according to the limitations recited in claim 29 in light of Waite's teachings. One skilled would have been motivated incorporate Waite's teachings for the same reasons given in claims 13 and 26.

Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (US 5,598,474) in view of Checchio (US 6,052,675) and further in view of Reeder (US 6,014,636).

**Claims 39:**

Johnson discloses wherein the transaction terminal is a point of sale (POS) terminal (col 6, lines 34-57). Johnson does not explicitly disclose wherein the transaction terminal is selected from the group consisting of a home computer system, a bank automatic teller machine (ATM) terminal, digital television, internet appliance, and personal POS terminal.

However, Reeder discloses a transaction terminal can be a home computer system, a bank automatic teller machine terminal, digital television, internet appliance, and personal point of sale terminal (col 1, lines 5-32 and col 3, lines 5-9). In light of this it would have been obvious to one of ordinary skill in the art at the time the applicant's

invention was made to have further modified Johnson's invention according to the limitations recited in claim 39. One of ordinary skill would have been motivated to do so as Reeder discloses that his teachings would allow a customer to not be present at the merchant's location and can instead select merchandise and effectuate payment at home (col 2, lines 31-35).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ponnoreay Pich whose telephone number is 571-272-7962. The examiner can normally be reached on 9:00am-4:30pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on 571-272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ponnoreay Pich

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Examiner  
Art Unit 2135

  
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